

1. To determine whether Robert G. Casagrande ("Casagrande") has violated Sections 1.65, 73.1015 and 73.3514 of the Commission's rules, made misrepresentations or lacked candor by failing to report required information in his application for a new FM station at Richwood, Ohio, and/or amendments thereto.
2. To determine whether Metro Broadcasting, Inc., an applicant for a construction permit for a new FM station at Westerville, Ohio, of which Casagrande was a principal, failed to submit complete and accurate information regarding its corporate documents, stock ownership and financial qualifications in violation of the Commission's filing, reporting and candor requirements.¹²
3. To determine whether M.M. Group, Inc. ("M.M. Group"), of which Casagrande is an officer, director and 50% stockholder, violated the Commission's rules with respect to the operation of Station WCFL(FM), Morris, Illinois, including, but not limited to:
 - a. Operation of the station with modified facilities without authorization.
 - b. Failure to respond to a Notice of Apparent Liability.
 - c. Violation of the terms of a Special Temporary Authorization issued by the Commission.
4. To determine whether M.M. Group misrepresented facts in an amendment, filed February 7, 1992, to an application for modification of Station WCFL(FM).
5. To determine whether M.M. Group has operated Station WNRJ(AM), Circleville, Ohio, in excess of power limits authorized in the station's licensed.
6. To determine whether M.M. Group and/or Riggs-Hutchinson & Associates, Inc. have operated Station WWHT(FM), Marysville, Ohio, in violation of Section 73.317(b) of the Commission's rules.

¹² Since this issue was not resolved, or even tried, in the Westerville proceeding, it is appropriately revisited here. Allegan County Broadcasters, Inc., 83 FCC 2d 371, 373-74 (1980).

24.

7. To determine whether Station WWHT has been operated without a main studio within its principal city contour or otherwise in violation of Section 73.1125 of the Commission's Rules.
8. To determine whether M.M. Group and Riggs-Hutchinson have violated Section 73.3612, 73.3615 and 73.3526 of the Commission's rules.

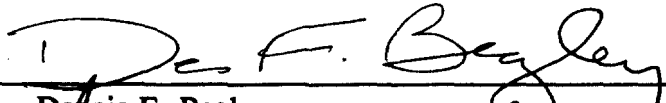
25.

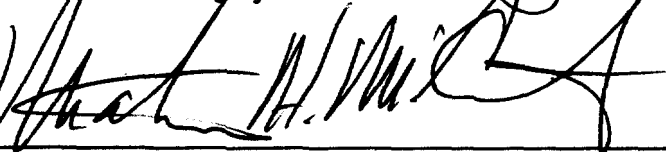
Accordingly, even in the event that qualifying issues are not specified against Casagrande, Janice M. Scantland should be permitted to produce evidence regarding the past broadcast record of Casagrande under the standard comparative issue.

Pursuant to Section 1.229(e) of the Commission's Rules, set forth in Exhibit LL hereto are the documents Ms. Scantland wishes to have produced and other discovery procedures she wishes to employ in the event the requested issues are added.

WHEREFORE, In light of all circumstances present, this Petition to Enlarge Issues should be GRANTED and the issues requested should be SPECIFIED.

JANICE M. SCANTLAND

By 
Dennis F. Begley

By 
Matthew H. McCormick

Her Counsel

Reddy, Begley & Martin
1001 22nd Street, N.W.
Suite 350
Washington, D.C. 20037

June 4, 1993

EXHIBIT A

**PERTINENT PORTIONS OF THE APPLICATION OF
ROBERT G. CASAGRANDE
FOR A NEW FM STATION
AT RICHWOOD, OHIO**

APPLICATION FOR CONSTRUCTION PERMIT FOR COMMERCIAL BROADCAST STATION

For COMMISSION Fee Use Only

FEE NO:

FEE TYPE

FEE AMT:

ID SEQ:

For APPLICANT Fee Use Only

Is a fee submitted with this application?

☒ Yes ☐ No

If fee exempt (see 47 C.F.R. Section 1.1112),
indicate reason therefor (check one box):

☐ Noncommercial educational licensee

☐ Governmental entity

FOR COMMISSION USE ONLY

FILE NO. BPH-920115M2

Section I - GENERAL INFORMATION

1. Name of Applicant

Robert G. and Holly K. Casagrande

Street Address or P.O. Box

1630 Strathshire

City

Powell

State

OH

ZIP Code

43065

Telephone No. (Include Area Code)

(614) 433-0433

Send notices and communications to the following
person at the address below:

Name Robert G. Casagrande, at above
address, with copies to:
Daniel F. Van Horn, Esquire
Arent, Fox, Kintner, Plotkin & Kahn

Street Address or P.O. Box

1050 Connecticut Avenue, N.W.

City

Washington

State

DC

ZIP Code

20037

Telephone No. (Include Area Code)

(202) 857-6030

2 This application is for:

☐

AM

☒

FM

☐

TV

(a) Channel No. or Frequency

282A

(b) Principal

Community

City

Richwood

State

Ohio

(c) Check one of the following boxes:

☒

Application for NEW station

☐

MAJOR change in licensed facilities; call sign: _____

☐

MINOR change in licensed facilities; call sign: _____

☐

MAJOR modification of construction permit; call sign: _____

File No. of construction permit: _____

☐

MINOR modification of construction permit; call sign: _____

File No. of construction permit: _____

☐

AMENDMENT to pending application; Application file number: _____

NOTE: It is not necessary to use this form to amend a previously filed application. Should you do so, however, please submit only Section I and those other portions of the form that contain the amended information.

3. Is this application mutually exclusive with a renewal application?

☐

Yes

☒

No

If Yes, state:

Call letters

Community of License

City

State

Section II - LEGAL QUALIFICATIONS (Page 3)

7. Does the applicant, any party to the application or any non-party equity owner in the applicant have, or have they had, any interest in:

(a) a broadcast station, or pending broadcast station application before the Commission?

☒ Yes ☐ No

(b) a broadcast application which has been dismissed with prejudice by the Commission?

☐ Yes ☒ No

(c) a broadcast application which has been denied by the Commission?

☐ Yes ☒ No

(d) a broadcast station, the license of which has been revoked?

☐ Yes ☒ No

(e) a broadcast application in any pending or concluded Commission proceeding which left unresolved character issues against the applicant?

☐ Yes ☒ No

If the answer to any of the questions in (a)-(e) above is Yes, state in an Exhibit the following information:

Exhibit No.
II-A

(1) Name of party having interest;

(2) Nature of interest or connection, giving dates;

(3) Call letters of stations or file number of application or docket; and

(4) Location.

8. (a) Are any of the parties to the application or non-party equity owners in the applicant related (as husband, wife, father, mother, brother, sister, son or daughter) to each other?

☒ Yes ☐ No

(b) Does any member of the immediate family (i.e., husband, wife, father, mother, brother, sister, son or daughter) of any party to the application or non-party equity owner in the applicant have any interest in or connection with any other broadcast station, pending broadcast application or newspaper in the same area (see Section 73.3555(c)) or, in the case of a television station applicant only, a cable television system in the same area (see Section 76.501(a))?

☐ Yes ☒ No

If the answer to (a) or (b) above is Yes, attach an Exhibit giving full disclosure concerning the persons involved, their relationship, the nature and extent of such interest or connection, the file number of such application, and the location of such station or proposed station.

Exhibit No.
II-B

9. State in an Exhibit any interest the applicant or any party to this application proposes to divest in the event of a grant of this application.

Exhibit No.
II-A

OTHER MASS MEDIA INTERESTS

10. (a) Do individuals or entities holding nonattributable interests of 5% or more in the applicant have an attributable ownership interest or corporate officership or directorship in a broadcast station, newspaper or CATV system in the same area? (See Instruction B to Section 11.)

☐ Yes ☒ No

(b) Does any member of the immediate family (i.e., husband, wife, father, mother, brother, sister, son or daughter) of an individual holding a nonattributable interest of 5% or more in the applicant have any interest in or connection with any other broadcast station, pending broadcast application, newspaper in the same area (see Section 73.3555(c)), or, in the case of a television station applicant only, a cable television system in the same area (see Section 76.501(a))?

☐ Yes ☐ No
DNA

If the answer to (a) and/or (b) above is Yes, attach an Exhibit giving a full disclosure concerning the persons involved, their relationship, the nature and extent of such interest or connection, the file number of such application, and the location of such station or proposed station.

Exhibit No.
DNA

SECTION III - FINANCIAL QUALIFICATIONS

NOTE: If this application is for a change in an operating facility do not fill out this section.

1. The applicant certifies that sufficient net liquid assets are on hand or that sufficient funds are available from committed sources to construct and operate the requested facilities for three months without revenue.
2. State the total funds you estimate are necessary to construct and operate the requested facility for three months without revenue.
3. Identify each source of funds, including the name, address, and telephone number of the source (and a contact person if the source is an entity), the relationship (if any) of the source to the applicant, and the amount of funds to be supplied by each source.

☒ Yes ☐ No

• 173,000

Source of Funds (Name and Address)	Telephone Number	Relationship	Amount
Robert G. and Holly K. Casagrande	(614) 433-0433	self	\$173,000

EXHIBIT II-A

Robert G. Casagrande is an officer, director, and 50% owner of MM Group, Inc., which is the licensee of the following radio stations:

WWHT(FM), Marysville, Ohio
WNRJ(AM)/WTLT(FM), Circleville, Ohio
WCSJ(AM)/WCFL(FM), Morris, Illinois
WQTL(FM), Ottawa, Ohio

Mr. Casagrande is in the process of divesting his interest in the radio stations listed above, and, if this application is granted, will fully divest his interest in and sever all connections with all of those stations prior to the commencement of

~~020504MD~~
Arent Fox Kintner Plotkin & Kahn

COPY *Richwood FM*
Competing
Applic
Construction
RECEIVED

Susan A. Marshall
202/857-6110

May 4, 1992

DUPLICATE

MAY - 4 1992

Federal Communications Commission
Office of the Secretary

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: **Application for Construction Permit for a
New FM Station in Richwood, Ohio
(File No. 920115ME)**

Dear Ms. Searcy:

Submitted herewith, in triplicate, is an amendment to the above-referenced application (File No. 920115ME) for a new FM station to operate on 104.3 MHz at Richwood, Ohio.

This amendment is being filed pursuant to § 73.3522(a)(6) of the Commission's Rules which provides that such minor amendments may be filed for a period of 30 days following the FCC's issuance of a Public Notice announcing the acceptance of the application for tender, which, in this case, was on April 3, 1992. In view of the fact that the 30-day period expired on May 3, 1992, which was a Sunday, this amendment is being filed on the next business day, which is Monday, May 4, 1992.

Please call me if you have any questions concerning the amendment.

Sincerely,

Susan A. Marshall

Susan A. Marshall

SAM/pat

Enclosure

8000 Connecticut Avenue, NW
Washington, DC 20036-5339

Telephone: 202/857-6000
Cable: ARFOX
Telex: WU 892672
ITT 440266
Facsimile: 202/857-6395

8000 Towers Crescent Drive
Vienna, Virginia 22182-2733

7475 Wisconsin Avenue
Bethesda, Maryland 20814-3413

45 Rockefeller Plaza
New York, New York 10111

Arent / Fox Europe
Budapest, Hungary

LEGAL INFORMATION

The application is hereby amended to reflect Robert G. Casagrande, as the sole individual applicant rather than Robert G. and his wife, Holly K. Casagrande, as individual applicants. Mr. Casagrande's business as well as his local residence address is 1630 Strathshire, Powell, Ohio 43065 [telephone no. (614) 433-0433].

Mr. Casagrande will be the Richwood station's full-time (40 hours a week) General Manager. He will perform all of the duties normally associated with that position, including the overall supervision of station affairs, preparation of budget and hiring and firing of personnel.

Mr. Casagrande will claim qualitative credit for his following broadcast experience:

Station WRFD(AM), Columbus, Ohio, full-time employee as production assistant, part-time announcer, 1974-1976

Station WBBY(FM), Westerville, Ohio, full-time announcer, 1976-1979

Station WTVN(AM), Columbus, Ohio, full-time announcer, 1979-1981

Station WXGT(FM), Columbus, Ohio, full-time announcer, 1981-1984

Co-owner of private telephone business, 1984-1986

Stations at WZZT(FM), Johnstown, Ohio and WPNM(FM), Ottawa, Ohio, co-owner, president and general manager, 1986-1988

MM Group Inc., licensee of Sstations WWHT(FM), Marysville, Ohio, WNRJ(AM)/WTLT(FM), Circleville, Ohio, WCSJ(AM)/WCFL(FM), Morris, Illinois, and WQTL(FM), Ottawa, Ohio, co-owner officer and director, 1988-present.

EXHIBIT B

**PERTINENT PORTIONS OF THE
INITIAL DECISION OF ADMINISTRATIVE LAW JUDGE JOHN H. CONLIN,
FCC 83D-53
(RELEASED SEPTEMBER 16, 1983)**

Before the
Federal Communications Commission
Washington, D. C. 20554

FCC 83D-53

6371

In re Applications of)	
)	
MID-OHIO COMMUNICATIONS, INC.)	BC DOCKET NO. 82-282
)	File No. BRH-790601F6
For Renewal of License of Station)	
WBBY(FM), Westerville, Ohio)	
)	
METRO BROADCASTING, INC.)	BC DOCKET NO. 82-283
Westerville, Ohio)	File No. BPH-790904AK
)	
For Construction Permit)	

Appearances

Paul Glist and John E. Hoover, on behalf of Mid-Ohio Communications,
Inc.: Thomas L. Root, on behalf of Metro Broadcasting, Inc.: and Stephen

its ability to operate in the public interest; and (2) approving the transfer was the only reasonable way of assuring a meaningful hearing between Mid-Ohio and Metro (90 F.C.C. 2d at 117).^{2/}

2. The following issues were designated for hearing (90 F.C.C. 2d at 122):

(1) To determine with respect to Metro Broadcasting, Inc.:

(a) whether it has sufficient funds to meet its proposed costs of construction and operation for three months; and

(b) whether, in light of the evidence adduced pursuant to (a) above, applicant is financially qualified.

(2) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

The funds availability issue was summarily resolved in Metro's favor on the first day of the hearing, and the decision was memorialized in a Memorandum Opinion and Order released on December 6, 1982 (FCC 82M-3849). Thus, only the comparative issue remains.

3. Prehearing conferences were held on July 21, 1982 and September 27, 1982. An admissions session was held on November 16, 1982 in Columbus, Ohio, and on the same day the hearing began, continuing through November 18, 1982. Proposed findings of fact were filed by the applicants on December 28, 1982 and replies were submitted on January 24, 1983.

Findings of Fact

Mid-Ohio.

4. Mid-Ohio, licensee of station WBBY(FM), Westerville, Ohio, is a corporation organized under the laws of the State of Ohio. Mid-Ohio has two shareholders: QNP owns 362 shares (75.3%) and Richard Nourse owns 119 shares (24.7%). Carl C. Nourse is president, treasurer and a director of Mid-Ohio. Richard Nourse is vice president and a director of Mid-Ohio and station manager at WBBY(FM). Mary P. Nourse is a director of Mid-Ohio and public affairs director at WBBY(FM). Carl and Mary Nourse are husband and wife and Richard is their son.

^{2/} The "unique" circumstances which dictated this result are set forth in the Commission's Memorandum Opinion and Order and will be referred to in passing throughout this decision. It is noted that following the Commission's action the transfer was consummated, with QNP acquiring control of Mid-Ohio in the late summer of 1982.

- i. "Forward in Faith": a 15-minute weekly religious program.
- j. "Church of God": a 15-minute weekly religious program.
- k. "Way of Truth": a 15-minute weekly religious program.
- l. "Herald of Truth": a 30-minute weekly religious program.
- m. "Church of the Living Savior": a 30-minute weekly religious program.
- n. "Sounds of Inspiration": a 30-minute weekly religious program.
- o. "St. John's Church": a 30-minute weekly religious program.

25. Metro introduced evidence regarding the performance of 11 other central Ohio stations which are located in communities comparable in size to Westerville (Metro Ex. 14). Of the selected stations, WBBY(FM) ranked lowest in the amount of public affairs and nonentertainment pro-

manager of the proposed station, a position which assures him a major role in management. While Mid-Ohio would seem to have some margin of superiority in these qualitative areas of comparison, they are clearly secondary considerations, the primary emphasis being on quantitative integration that is full time in nature. Merrimack Valley Broadcasting, Inc., 92 F.C.C. 2d 507, 514 (Rev. Bd. 1982). Since Metro proposes more than twice as much full-time integration as Mid-Ohio, an amount that in this case represents a majority of the shares held in the corporation, it is awarded a preference in this area of comparison notwithstanding Mid-Ohio's considerable part-time integration and a moderate preference for its enhancing qualitative considerations.

Summation

17. No preference has been found for diversification of media ownership interests. The past record of WBBY(FM) is regarded as warranting neither a preference nor a demerit. Metro has been found superior in terms of integration of ownership with management.

Accordingly, IT IS ORDERED that unless an appeal from this Initial Decision is taken by a party or it is reviewed by the Commission on its own motion in accordance with Section 1.276 of the rules, the application of Metro Broadcasting, Inc. IS GRANTED, and the application of Mid-Ohio Communications, Inc. IS DENIED.^{20/}



John H. Conlin
Administrative Law Judge
Federal Communications Commission

20/ In the event exceptions are not filed within 30 days after the release of this Initial Decision, and the Commission does not review the case on its own motion, this Initial Decision shall become effective 50 days after its public release pursuant to Section 1.276(d).

EXHIBIT C

MID-OHIO COMMUNICATIONS, INC.,

56 RR2d 238

(REV. BD. 1984)



14. Accordingly, it is ordered, that the Commission's Memorandum Opinion and Order FCC 84-28, released February 1, 1984, is modified. to the extent indicated herein. 25/

15. It is further ordered, that the Petition for Reconsideration and Intervention filed February 24, 1984 by Wayne B. Cooper, and the Supporting Statement filed February 28, 1984 by Henry A. Solomon, and the Petition for Reconsideration filed March 2, 1984, by Thomas J. Casey, are dismissed.

16. It is further ordered, that the Petitions for Stay, filed February 15, 1984 by Graphic Scanning Corporation, and February 24, 1984 by Wayne B. Cooper are denied.

FCC 84R-46
4840

In re Applications of)

MID-OHIO COMMUNICATIONS, INC.)

BC Docket No. 82-282
File No. BRH-790601F6

For Renewal of License of Station WBBY(FM),
Westerville, Ohio)

METRO BROADCASTING, INC.
Westerville, Ohio)

BC Docket No. 82-283
File No. BPH-790904AK

For Construction Permit)

Adopted: June 5, 1984

Released: June 15, 1984

[951:65(4)] Integration plans and practices.

An FM renewal proceeding would be remanded to the administrative law judge to permit him to determine whether a 24% owner listed in the renewal applicant's application as a full-time employee of the station had ceased to work at the station, and whether the applicant's failure to inform the Commission of that fact constituted a violation of the Commission's reporting rule. Mid-Ohio Communications, Inc., 56 RR 2d 238 [Rev. Bd., 1984].

[953:24(D)(5)] Carelessness, ineptness.

A renewal applicant's apparent failure with

record in the proceeding and addition of an issue against the applicant. Mid-Ohio Communications, Inc., 56 RR 2d 238 [Rev. Bd. 1984].

MEMORANDUM OPINION AND ORDER

By the Review Board:

1. This is an unusual comparative renewal case which the parties apparently agree does not turn on the past broadcast record of Station WBBY(FM), Westerville, Ohio. In an Initial Decision, FCC 83D-53, released September 16, 1983, Administrative Law Judge Conlin concluded that Metro Broadcasting, Inc. was the superior comparative applicant since it "proposes more than twice as much full-time integration" of ownership into management of the station than does Mid-Ohio Communications. I.D. Concl. para. 16.

2. Oral argument on the exceptions, briefs, and reply briefs of both applicants and on Metro's motion to reopen the record and enlarge issues (see para. 3, below) was held before the Review Board on January 17, 1984, and on January 25 and March 6, the Board requested additional information. Despite the parties' responses we have been unable to finally resolve this case because of substantial and material questions of fact which have emerged since the I.D. was released. The case must therefore be remanded, Valley FM Radio, 93 FCC 2d 1330 [53 RR 2d 1195] (Rev. Bd. 1983), for a further hearing on two new issues:

2(a). To determine whether Mid-Ohio Communications, Inc. violated §1.65 of the Commission's rules by failing to report the changed employment status of Richard P. Nourse, or during the hearing misrepresented the facts regarding his employment plans, and the effect thereof on Mid-Ohio's basic or comparative qualifications.

7(b). To determine whether Metro Broadcasting, Inc. failed to submit complete

6. In its exceptions Mid-Ohio sought credit for Richard Nourse's stock ownership, even though he had acquired his interest after the cut-off date for comparative improvement of the applications, and despite the anti-upgrading teachings of *Cleveland Television Corp. v. FCC*, No. 83-1659 [55 RR 2d 1411] (DC Cir. April 20, 1984), Slip Op. pp. 4-5 n. 2, and *Allied Broadcasting, Inc. v. FCC*, 435 F2d 68, 70 n. 9 [19 RR 2d 2071] (DC Cir. 1970). In justification it argued that Metro had also failed to specify the actual percentage of each Metro principal's ownership interest until after the cut-off date. Br. 14-16. Our review of this contention establishes that Metro's original application filed September 4, 1979 failed to disclose the amount of stock owned by each of the principals. Mid-Ohio Br. Att. A.p. 1. Metro's application was amended on February 22, 1980, when one of the principals was replaced, but the defect regarding stock ownership amounts was corrected as to only one of the principals. Mid-Ohio Br. Att. A.p. 2. Not until another amendment on March 12, 1982, was the ownership of each principal specified, but this occurred after the cut-off date. Mid-Ohio Att. Br. A.p. 3. Moreover, when the Board asked Metro to clarify the record about corporate stock ownership it was informed that Metro has lost its corporate charter. Although the ALJ had been informed at the hearing on September 9, 1982 that "Metro has taken steps to reverse that action, and in fact has been advised that it is a ministerial thing that can be done . . . (Tr. 102) the corporate charter was not revived until after the Board's further inquiry on March 6, 1984, and no substantial showing was made establishing the candor of the representations to the ALJ at the hearing.

7. The record concerning Metro's financial qualifications also reveals considerable disarray. The stock subscription agreements were never filed even though their absence was noted by the Commission and led to the addition of the financial issue. Nevertheless, in July 1982, Metro filed a financial amendment to its application and moved for summary decision, which the ALJ denied. FCC 82M-2753. However, in October 1982, Metro filed a second financial amendment to its application, and this time the ALJ granted summary decision. FCC 82M-3849. When the Bureau filed a pleading with the Board on November 1, 1983, indicating that Metro had failed to comply with the Commission's financial standards Metro filed a third financial amendment on January 10, 1984. The record also establishes that before the applications were designated for hearing Metro had filed still another amendment in which it improperly attempted to certify that it was financially qualified; however, the Commission denied that amendment. 90 FCC 2d at 121 n. 9.

8. Some of Metro's filing miscues might be ignored if they were isolated incidents. However, here a distressing pattern with substantial impact emerges, which can be traced from the Commission's original designation order to our recent requests for additional information. In *Fidelity Television, Inc. v. FCC*, 515 F2d 684, 705 [34 RR 2d 419] (DC Cir. 1975), the court indicated that the Commission does not have to replace an average broadcaster with a "nothing" challenger. At this point we are not prepared to declare Metro a "nothing" applicant; however, in *Merrimack Valley Broadcasting, Inc.* 55 RR 2d 23, 25 (1983), the Commission indicated that an issue should be added when an applicant demonstrates a "pattern of carelessness or inattentiveness." We will therefore add issue 2(b) to permit full exploration of this matter. See also *Bay Television, Inc.*, supra; *Broadcast Communications, Inc.*, 93 FCC 2d 1162, at para. 25 [53 RR 2d 805] (Rev. Bd. 1983), affirmed on this point, para. 3, FCC 84-99, released March 20, 1984; *Minority Broadcasters of East St. Louis, Inc.* FCC 84-45 [56 RR 2d 275] released June 15, 1984.

9. Accordingly, it is ordered, that the motion to reopen the record and enlarge issues, filed November 2, 1983 by Metro Broadcasting is granted to the extent indicated above; that its petition for leave to amend and amendment filed January 10, 1984, are dismissed as moot; and that the issues in this proceeding are enlarged by the addition of the following issues:

2(a). To determine whether Mid-Ohio Communications, Inc. violated §1.65 of the Commission's rules by failing to report the changed employment status of Richard P. Nourse, or during the hearing misrepresented the facts regarding his employment plans, and the effect thereof on Mid-Ohio's basic or comparative qualifications.

2(b). To determine whether Metro Broadcasting, Inc. failed to submit complete and accurate information regarding its corporate documents, stock ownership, and financial qualifications in violation of the Commission's filing, reporting and candor requirements, and the effect thereof on Metro's basic or comparative qualifications.

pf

10. It is further ordered, that the burden of proceeding with the introduction of the evidence on issue 2(a) shall be on Metro Broadcasting; that the burden of proceeding on issue 2(b) shall be on Mid-Ohio Communications; that the burden of proof on issue 2(a) shall be on Mid-Ohio Communications, and the burden of proof on issue 2(b) shall be upon Metro Broadcasting; and that the proceeding is remanded to the presiding Administrative Law Judge for the production of evidence on the issues specified above and for the preparation of a Supplemental Initial Decision.

MM
FCC 84-259
95238

In re Applications of)	
)	
OSWEGO B/CASTING AND COMMUNICATIONS, INC.)	MM Docket No. 83-474
Ithaca, New York)	File No. BPCT-820312KF
)	
Craig Fox, P. Rydell, et al., dba)	
ITHACA TV ASSOCIATES)	MM Docket No. 83-475
Ithaca, New York)	File No. BPCT-820510KZ
)	
For Construction Permit)	

Adopted: June 13, 1984
Released: June 18, 1984

[§51:245] Disqualification of presiding judge.

An applicant's contention that an administrative law judge's rulings, which were consistently in favor of the applicant's opponent and which were in several instances contrary to the position taken by the Bureau, indicated a pattern of bias against the applicant requiring disqualification of the judge was without merit. Nor did the allegation that the rulings contained clear errors of fact and law require disqualification, since any errors in the judge's ruling could be corrected on appeal. Oswego B/casting and Communications, Inc., 56 RR 2d 241 [1984].

MEMORANDUM OPINION AND ORDER

By the Commission:

1. This proceeding involves two mutually exclusive applications for a new television station in Ithaca, New York. At a prehearing conference held on May 1, 1984 the Presiding Administrative Law Judge denied a request, filed April 23, 1984, by counsel for Oswego Broadcasting and Communications, Inc. (Oswego) that he disqualify himself from this proceeding in accordance with §1.245 of the Commission's rules. 1/ Oswego excepted to the ruling, and pursuant to §1.245(b)(4) of the Commission's rules, Judge Chachkin certified the question of disqualification to the Commission and suspended the hearing pending a ruling on the question by the Commission. 2/
2. Oswego argues that the Presiding Judge is biased against Oswego. In support of its claim of personal bias, Oswego relies essentially on three interlocutory rulings issued by the Administrative Law Judge. The first ruling complained of is Judge Chachkin's September 20, 1983 Memorandum Opinion and Order (FCC 83M-3304, released September 21, 1983). Therein, the Judge rescinded an earlier Order (FCC 83M-2889, released August 25, 1983) which had approved

1/ The ruling was confirmed in an Order, FCC 84M-2131, released May 3, 1984.

2/ Order, FCC 84M-2181, released May 8, 1984.

EXHIBIT D

FCC DOCKET SHEET
REGARDING THE APPLICATION OF
METRO BROADCASTING, INC.

REMCO RRNT-37678 A

(FM) *slp* DOCKET BRANCH — FEDERAL COMMUNICATIONS COMMISSION

DOCKET NUMBER BC 82-283	METRO BROADCASTING, INC. Westerville, Ohio Cons. with Docket 82-282.	FACILITIES			
APPL. NUMBER 0-31-89		OPERATING		REQUESTED	
APPL. NUMBER BPH-79094				CH.#280	
CALL LETTER NEW				103.9MHz	
REPORT NUMBER				ERP:	
APPEAL DOCKET				2kW H&V	
DATE OF DESIGNATION 5-20-82				UNLIMITED	
ORDER MAILED	APPL. APPR. DUE	HEARING DATE	TRANS. COMPL.	PROP. FIND. DUE	DATE OF ORAL. ARGU.
6-1-82		9-1-82			

Metro: Thomas L. Root, 2000 L Street, N.W., Suite 840, Washington, D.C. 20037

FOR ENTRIES AFTER 5-20-82 SEE BC 82-282

9-06-83 - I.D. adopted by Judge Conlin GRANTING the appln. of Metro
(BC 82-283). (FCC 83D-53) Rel 9-16-83 Exeptions Due
10-17-83

6-24-85-M O & O adopted by Judge Conlin directing that
the Joint Request for approval of agreement filed
on 12-20-84, as modified by the Supplement thereto
filed on 6-19-85, IS GRANTED; the modified agreement
IS APPROVED; and the application of Metro Broadcasting,
Inc. IS DISMISSED with prejudice, Rel. 6-26-85
FCC 85M-2618 (5687) weq

EXHIBIT E

OWNERSHIP REPORT

OF

M.M. GROUP, INC.

(FILED MAY 9, 1990)

(15)

RECEIVED

MAY 9 - 1990

LAW OFFICES
HALEY, RADEB & POTTS

Federal Communications Commission
Office of the Secretary